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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,639	09/20/2005	Hubert Cecile Francois Martens	NL 030329	8062

24737 7590 12/23/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SASINOWSKI, ANDREW

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/549,639

**Applicant(s)**

MARTENS ET AL.

**Examiner**

ANDREW J. SASINOWSKI

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 9/20/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the pregroove on the first recording layer extending spirally in a first direction and the pregroove on the second recording layer extending spirally in a second direction opposite to the first direction for constituting a multi-part recording area” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because fig. 5 displays arrows with no reference number or explanation in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Maeda et. al. [US 6,072,759].

Regarding claim 1, Maeda teaches:

- Record carrier of a writable type for recording information by writing marks in a track on a recording layer via a beam of radiation entering through an entrance face of the record carrier **[abstract]**,
- the marks being detectable during scanning the track via the beam **[col. 5, lines 21 – 31]**,
- the record carrier comprising at least a first recording layer and a second recording layer **[fig. 5c]**,
- the first recording layer being present at a position closer to the entrance face than the second recording layer **[either layer could be the 'first layer' and meet this claim limitation]**,
- and a transparent spacer layer between the recording layers **[fig. 1b, 'Z']**,
- each recording layer comprising a pregroove indicating the position of the track **[fig. 5c, also see col. 6, lines 46 – 53]**,
- the pregroove exhibiting a wobble constituted by displacements of the pregroove in a direction transverse to the longitudinal direction of the track **[abstract, note that DVD-formatted media have wobbled tracks]**
- the wobble exhibiting a wobble modulation for representing control information **[abstract]**,

- and the pregroove on the first recording layer extending spirally in a first direction and the pregroove on the second recording layer extending spirally in a second direction opposite to the first direction for constituting a multi-part recording area **[fig. 5c]** interrupted by an intermediate zone that physically is constituted by a first intermediate part located at the end of the first recording layer and a second intermediate part located at the start of the second recording layer **[fig. 5c, note that the middle area is divided into a part in the first layer and a part in the second layer, meeting the claimed limitation]**,
- the recording area being preceded by lead-in information located at the start of the first recording layer and being followed by an ending part for lead-out information or further intermediate information located at the end of the second recording layer **[fig. 5c]**,
- a lead-in part of the pregroove located at a part of the first recording layer intended for recording the lead-in information comprising said wobble modulation representing first control information including recording parameters for the first recording layer **[fig. 5c, abstract]**,
- and the ending part comprising said wobble modulation representing second control information including recording parameters for the second recording layer **[fig. 5c, note that indicating where the data area ends on the second layer meets the 'recording parameter' limitation]**.

Regarding claim 4, Maeda teaches:

- Device for scanning a track on a record carrier (11) via a beam of radiation (24),
- the track comprising marks on a recordable area of a recording layer,
- the beam entering through an entrance face of the record carrier,
- the record carrier comprising...**[note that the particulars of the media as taught in claim 4 are not required in light of the device structure as taught below]**
- the device comprising a head for providing the beam **[32]**,
- recording means for writing marks in the track via the beam **[fig. 23a]**,
- a front-end unit for generating a scanning signal for detecting marks in the track **[fig. 23a]**,
- and wobble detection means for retrieving the first control information from the wobble modulation on the first recording layer and for locating the ending part and retrieving the second control information from the wobble modulation on the second recording layer **[par. spanning cols. 25 and 26]**.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 - 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda in view of Ross [US 2003/0081535].

Regarding claims 2 and 3, Maeda teaches:

- Record carrier as claimed in claim 1,
- wherein the lead-in part of the pregroove is extending on the first recording layer from a starting radial position to an ending radial position **[fig. 5c]**,

However, Maeda does not teach:

- the ending part of the pregroove that comprises the second control information is substantially located between a radial position corresponding to said ending radial position and a radial position corresponding to said starting radial position.
- wherein said ending radial position on the first recording layer substantially corresponds to a radial position on the second recording layer where the wobble modulation representing the second control information starts.

Ross does teach:

- the ending part of the pregroove that comprises the second control information is substantially located between a radial position corresponding to said ending radial position and a radial position corresponding to said starting radial position **[fig. 2]**.
- wherein said ending radial position on the first recording layer substantially corresponds to a radial position on the second recording layer where the



wobble modulation representing the second control information starts **[fig. 2]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to modify the medium taught by Maeda with the corresponding radial area positioning taught by Ross because doing so would enable multi-session recording of media that would be backwards-compatible with older media readers [Ross, §0023].

7. Claims 5 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda.

Regarding claim 5, Maeda teaches:

- Device as claimed in claim 4,
- wherein the device comprises a control unit for performing an initialize procedure after inserting the record carrier **[41. also see col. 22, lines 7 – 12]**,
- in which procedure the first control information is read in the lead-in part and the second control information layer is read in the ending part.

However, Maeda does not teach:

- in which procedure the first control information is recorded in the lead-in part and the second control information layer is recorded in the ending part.

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the device taught by Maeda to record rather than read the each control data

section because it is well known that by raising the laser power the device could write rather than read the control data onto the disc.

Regarding claims 6 – 8, Maeda does not disclose the alternative locations/arrangements for the first and second control info as claimed. However, the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art, namely control information being or not being accessible in a given layer. Accordingly, the claimed alternative locations/arrangements for the first and second control info would have been obvious at the time of invention.

### ***Response to Arguments***

Applicant's typographical correction to claim 8 have been fully considered and is persuasive. Therefore, the objection has been withdrawn.

Applicant's arguments regarding claim 8 being objected due to improper multiple claim dependency, as well as arguments regarding claims 21 and 23, have no basis in the current case.

Applicant's arguments with respect to claims 1 - 8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW J. SASINOWSKI whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (571)272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627